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USDC JMA  
Zobel, R.

**United States Court of Appeals  
For the First Circuit**

No. 05-2778

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**MANDATE**

FOTINEE FARAH ZAKI,  
Plaintiff, Appellant,  
v.

UNITED STATES,  
Defendant, Appellee.

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Before

Torruella, Circuit Judge,  
Selya, Senior Circuit Judge,  
and Howard, Circuit Judge.

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JUDGMENT

Entered: January 8, 2007

This appeal arises out of an automobile collision that occurred between appellant Fotinee Farah Zaki and Edward Keen, a United States Post Office mail carrier. As a result of this accident, appellant filed a claim under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680, and, after a bench trial, the district court entered judgment for the government. We have carefully reviewed the parties' briefs and the trial transcript and conclude that the district court's finding that appellant was more than 50 percent negligent in relation to the collision is not clearly erroneous. See La Esperanza de P.R., Inc. v. Perez y Cia. de Puerto Rico, Inc., 124 F.3d 10, 15 (1st Cir. 1997) (holding that a bench finding of negligence is reviewed solely for clear error). And, even though the case could have come out the other way, this is not a basis for disturbing the lower court's judgment. See Puerto Rico Ports Auth. v. Barge Katy-B, 427 F.3d 93, 103 (1st Cir. 2005) ("[w]hen two permissible views of the evidence coexist, the factfinder's choice between them cannot be clearly erroneous").

In so concluding, we add only the following: (1) the finding of "not responsible" concerning the traffic citation for going through a red light did not preclude the district court from finding, as it did, that appellant nonetheless had gone through a yellow light; (2) the district court's decision to credit the witnesses who testified that Keen's light had been green was within the court's wide discretion, see id. at 104-05 ("the credibility of witnesses and the weight to be accorded to their testimony are, within wide limits, matters for the factfinder"); and (3) the district court did not clearly err in citing appellant's speed as a factor in its decision since appellant was going through a yellow light at the relevant time.

Summarily Affirmed. See Local Rule 27.0(c).

By the Court:

Richard Cushing Donovan, Clerk.

By: MARGARET CARTER  
Chief Deputy Clerk.

Certified and Issued as Mandate  
under Fed. R. App. R 41.

Richard Cushing Donovan, Clerk

Christy Phillip  
Deputy Clerk

Date: 3/1/07

[cc: Fontinee Farah Zaki, Gina Y. Walcott-Torres, AUSA]